CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF THE MEETING, Public Session

Friday, March 9, 2001

Call to order: Chairman Karen Getman called the monthly meeting of the Fair Political Practices Commission (FPPC) to order at 9:40 a.m. at 428 J Street, Eighth Floor, Sacramento, California. In addition to Chairman Getman, Commissioners Sheridan Downey, Thomas Knox and Gordana Swanson were present.

Chairman Getman asked for a motion to consider in closed session the addition of an item of pending litigation concerning a lawsuit filed against the Commission and the Attorney General by the Institute of Governmental Advocates. She noted that the Commission had been served with the lawsuit on March 2, 2001, which was after the agenda had been mailed to the public. She noted that notice of the pending litigation and a notice of the additional item to be considered on the agenda had been sent to the media and made available to the public on the web site and posted at the FPPC offices.

Commissioner Knox motioned that the IGA lawsuit be considered in closed session. Commissioner Downey seconded the motion. There was no objection from the Commission and the item was added to the closed session portion of the agenda.

Item #1. Approval of the Minutes of the January 12, 2001, Commission Meeting.

The minutes of the January 12, 2001 Commission meeting were distributed to the Commission and made available to the public. Commissioner Swanson motioned that the minutes be approved. Commissioner Downey seconded the motion. There being no objection, the minutes were approved.

Item #2. Public Comment.

Jim Knox, Executive Director of Common Cause, presented his concerns about *California ProLife Council Political Action Committee v. Scully* for the Commission's consideration. He urged the Commission to appeal the recent decision of the U.S. District Court.

Mr. Knox explained that Common Cause was concerned primarily with the fate of § 84503, that deals incidentally with slate mail disclosure, but is primarily focused on ballot measure advertising disclosure. He noted that § 84503 requires that ballot measure advertisements disclose, within the advertisement, the two largest donors of $50,000.00 or more.

Mr. Knox argued that ballot measures have become the most expensive campaigns in California and § 84503 is probably the single most important form of campaign disclosure in the state of California. He stated that California Common Cause believed that it is the most important initiative reform needed in California. The purpose of the section, he noted, is to inform the voters of the true source of funding for ballot measure campaign advertisements, and to prevent the backers from hiding behind "deceptive" generic committee names.

Mr. Knox explained that a similar reform measure had been passed by the voters as part of Proposition 105 in 1988, and then invalidated when Proposition 105 was overturned because the proposition was deemed to be in violation of the single subject rule. It was approved by the

voters a second time, as part of Proposition 208, and challenged because it was cross-referenced in the slate-mailer provisions. He noted that this was one of the few provisions of Proposition 208 that the authors of Proposition 34 did not seek to repeal.

Mr. Knox argued that this section embodies the same principle that the Commission commendably fighting for in the *Griset* and *California ProLife Council v. Getman* cases. The most recent decision, he stated, focused primarily on slate mailer applications, but relied on the faulty reasoning of the *McIntyre* decision to strike down the ballot measure disclosure requirements. He stated that allowing the *McIntyre* decision to take down this provision would be the same as embracing the principle that the Commission is fighting in *Griset.*

Mr. Knox argued that accepting Judge Karlton's reasoning would mean that it would be unconstitutional to require ballot measure committees to submit campaign finance reports. Mr. Knox charged that Judge Karlton's reasoning was not acceptable and must be challenged. He pointed out that the Commission had already successfully fought this kind of reasoning in *California ProLife Council v. Getman.*

Mr. Knox stated that the Commission needed to appeal the decision to uphold the will of the voters who have voted twice for this form of ballot measure disclosure. He urged the Commission to appeal the decision to defend the public's interest in being allowed to know who is really funding the measures which are increasingly dominating public policy in California. He added that disclosure is fundamental to an informed electorate in a fair political process.

Trudy Schafer, Program Director and Advocate for the League of Women Voters in California, agreed with Mr. Knox, and urged the Commission to appeal the District Court's decision. She believed that disclosure is the essential component of campaign finance reform and that it is crucial for the Commission to appeal the decision. She noted that the League of Women Voters, Common Cause, the American Association of Retired Persons and United We Stand of California were the sponsors of Proposition 208 and that it was passed by the voters with a 61.3% vote. She believed that aspects of the *McIntyre* case were still undecided, as evidenced by the fact that litigation is continuing in the *Griset* and *California ProLife v. Getman* cases.

Item #3. *In re Pelham* Opinion Request, O-00-274.

Staff Counsel Scott Tocher presented the opinion request by the Los Angeles City Ethics Commission (LAEC), noting that they requested to know whether a conflict exists between their city ordinance and Proposition 34 in four different situations.

Chairman Getman asked that Mr. Tocher explain the role of the FPPC, specifically whether the Commission needed only to interpret Proposition 34 or whether they needed to determine whether the Los Angeles City statute is in conflict with Proposition 34.

Mr. Tocher responded that the Commission's role was not to interpret the Los Angeles City charter nor the specific ordinances in question. The Commission's role, he stated, was to interpret and enforce the provisions of the Political Reform Act (PRA). He agreed that the Commission was interpreting the four provisions in question, but not answering whether those provisions conflict with Los Angeles's municipal ordinances.

General Counsel Luisa Menchaca stated that Proposition 34 includes provision 85703, which states that nothing in the PRA will nullify contribution limitations or prohibitions at any local jurisdiction level, and to that extent, the Commission can, by interpreting what is a contribution

limit or prohibition, discuss whether contribution limits or prohibitions fit within that definition under the Commission's purview. She viewed the Commission's role to be limited to what § 85703 allows to be considered.

Mr. Tocher further stated that the question of whether Proposition 34 preempted the field does not have to be reached by the Commission at this time. If municipal and state provisions were found to conflict, only then would the Court need to decide whether the state provision preempted the municipal provision.

Item I

Mr. Tocher presented the first query from the LAEC, involving the disclosure of occupation and employer information for contributors of over $100, and providing for the return of that contribution if the information is not obtained within 60 days. The LAEC questioned whether that would interfere with the City of Los Angeles enforcing its law prohibiting a candidate from depositing a contribution if the donor has not provided the donor information.

Mr. Tocher explained that § 81013 of the Act explained how potentially conflicting statutes should be considered, noting that because the local requirement not allowing the deposit of the contribution would not prevent compliance with the Act, it would not be in conflict with the state statute.

LeeAnn Pelham, Executive Director of LAEC, supported the staff position.

Commissioner Swanson motioned approval of the staff recommendation regarding § 85700. Commissioner Downey seconded the motion. There being no objection, the motion carried.

Item II

Mr. Tocher presented the staff recommendation regarding § 85304(b), addressing possible contribution restrictions relative to legal defense funds. That provision, he explained, exempts from campaign contribution limits legal defense fund contributions. The Los Angeles Municipal Code 49.7.12, he noted, established a fiscal year limit on those contributions at $1,000 per person, per matter, per year.

Mr. Tocher explained that the December 19, 2000 letter from the LAEC posed a general question of whether or not Los Angeles can enforce its own law, and staff recommended that, since the two rules govern two different elections, the city could enforce its own local ordinance.

Chairman Getman noted that the letter received from Ms. Pelham indicated that the local ordinance allowed a legal defense fund that could be used for any electoral campaign challenge, not just a city campaign.

Ms. Pelham agreed, noting that the local ordinance allowed the legal defense fund to defray fees and costs associated with matters arising out of an election or in the conduct of an official's duties. In practice, she explained, officials have raised defense funds for use in defending both city and state law violations. The LAEC believed that the staff's recommendation is correct, but that it needed to explain how a city candidate or official operating under the laws of Los Angeles, should deal with the $1,000 donation limit when that donation is for use in a legal defense fund associated with a statewide office.

Mr. Tocher responded that, if an action arises from a city candidate's official duties or a city campaign for office, the city statute would govern. He added that § 85304 would be triggered as a result of actions arising from a statewide campaign and actions arising from a statewide officeholder's duties.

Commissioner Knox noted that the staff memo drew a distinction between state and local offices. He noted that the March 5, 2001 letter from the LAEC raised questions about scenarios involving a city official who is also a candidate for state office and is under investigation for alleged violations of both state and city laws. He noted that the LAEC believed that the $1,000 limitation under the local ordinance would apply, even though it involved a candidacy for state office, and that the investigations by the LAEC would look into violations of both state and local law. He asked how staff would draw a bright line distinction between candidacies for statewide offices and municipal offices.

Mr. Tocher responded that they key would be in whether the violation was connected to an action arising out of a state election campaign. The provisions of § 85304 would govern in that situation, he noted.

Chairman Getman stated that Mr. Knox's interpretation is different than LAEC's interpretation.

Commissioner Knox suggested that both could govern, but asked if the municipal ordinance had any "traction" in trying to raise money to mount a legal defense to allegations brought by the LAEC concerning campaign irregularities in a statewide campaign.

Ms. Pelham argued that Proposition 34 language governs if the violation involves a state official or a state candidate who is not a city official, and in those cases donations to the legal defense fund could be unlimited, regardless of whether the violation was a state or local violation. If a person was a local official or a local candidate and the Proposition 34 language governed the defense fund donations, it would invalidate the LAEC $1,000 donation limit law.

Commissioner Knox noted that it would invalidate that law only in connection with investigations of violations that concern campaigns for statewide office.

Chairman Getman noted that the city's contribution limits would not apply in those situations anyway.

Ms. Pelham stated that the city contribution limits to the legal defense fund would apply if the contribution involved a city official running for statewide office. She explained that the officials would get the benefit of establishing a legal defense fund under Proposition 34, but the donations to that fund would be subject to the limits defined in the city laws.

Chairman Getman noted that an official campaigning for a statewide office is subject to the Proposition 34 contribution limits, and that the city ordinance does not govern them in the receipt of contributions. She questioned whether, since the officials were already outside the city's contribution laws anyway, they should be outside the city's legal defense fund limits too.

Ms. Pelham responded that the concern is heightened by the fact that it involves unlimited funds.

Ms. Menchaca added that § 85703 is very relevant, and that the qualifying language of that section refers to "elections for local elective office." She agreed that if it involved a candidacy for statewide office, Proposition 34 would govern.

Chairman Getman observed that staff was looking at the election as opposed to the candidate, and that LAEC was looking at the candidate as opposed to the election.

Ms. Menchaca noted that § 85703 requires that the election govern.

Commissioner Knox clarified that §85703, as applied to the question of a city official running for statewide office, would allow the candidate to accept unlimited funds for a legal defense fund earmarked for violations of state law.

Ms. Menchaca agreed.

Chairman Getman asked whether, conversly, a state official running for city office would be bound by the limitations of the city ordinance with respect to the city legal defense fund.

Ms. Menchaca said it would, based on focusing on the local elective office.

Commissioner Downey clarified that LAEC's position was that a city official running for statewide office is subject to the $1,000 contribution limit.

Ms. Pelham agreed.

Colleen McAndrews, with Bell, McAndrews, Hiltachk and Davidian, pointed out that connecting the wrongdoing to the candidacy or office can be difficult. She cited a scenario of a city official running for state office who might be charged by the LAEC, the FPPC, the District Attorney and the U.S. attorney, over a matter that has nothing to do with a campaign election. The charges may have to do with conflict of interest issues, misuse of office, or other matter that is not neatly tied to the state or the city. She noted that many thousands of dollars in legal fees could be incurred by officials who cannot afford it, and their ability to have advice from counsel could be affected by the limitations. She stated her belief that Proposition 34 was written with those situations in mind.

Chairman Getman noted that if it was a city election, that candidate or official would be bound by the limitations.

Ms. McAndrews agreed. She clarified that LAEC's limits were one $1,000 donation per matter, per year, but that it is still difficult for some officials to have an adequate defense fund.

Ms. Menchaca noted that § 85304 refers to candidates for elective state office or an elected state officer, and would include incumbents.

Chairman Getman stated her concern that the language would have to be construed to mean that, even though it says elected state official or an incumbent running in an election, those individuals involved in a local election would not get the benefit of the Proposition 34 unlimited legal defense fund.

Mr. Tocher suggested another scenario under the LAEC interpretation, whereby a city officerholder running for statewide office would be governed by the local limits, while the incumbent running for the same office would be governed by Proposition 34. The city officeholder would have the $1,000 limits, and the incumbent would have no limits on defense

fund contributions, for actions arising from the same campaign. Under staff's interpretation, he explained, there would be only one standard.

Scott Hallabrin, from the Assembly Ethics Committee, presented a scenario whereby a statewide elected officer, running for a Los Angeles city office, is alleged to have violated an officeholder duty in their statewide office. He asked which laws would govern that situation.

Ms. Menchaca confirmed that § 85304 would govern, allowing unlimited donation limits to the legal fund.

Ms. Pelham noted that the LAEC is charged, under their charter, to investigate and bring actions for both city and state law violations. She explained that if an allegation were made against a state official that the official forced a city official to use public resources to aid in their state campaign, it would be investigated by the LAEC, even though, ultimately, the FPPC might bring charges.

Chairman Getman stated that she was inclined to accept staff's recommendation that the election activity should govern the legal defense fund limitations because it is tied to contribution limits.

Commissioner Knox noted that the language of § 85304 refers to a candidate for state office or an elected state officer, and that the language entitles those persons to establish a legal defense fund without the $1,000 limitation. For those candidates or officers who happen to live in Los Angeles, he added, § 85304 does not refer to statewide campaigns. He noted that § 85304 simply states "out of the conduct of an election campaign, the electoral process, or the performance of governmental activities."

Chairman Getman suggested that § 85304 should be read with § 85703. That section, she explained, states that when reading the PRA, it must be read in a way that does not nullify the contribution limit in an election for a local elective office.

Commissioner Knox agreed.

Commissioner Sheridan asked whether, in the scenario of a state official running for elective office in Los Angeles, staff recommended that local law would apply with respect to actions arising out of that campaign.

Mr. Tocher agreed.

Commissioner Swanson noted that the city of Los Angeles currently has state officials running for elective office in Los Angeles.

Chairman Getman stated that those state officials are currently bound by the local campaign finance laws, including the contribution limits and the legal defense fund limitations.

In response to a question, Ms. Pelham explained that any monies left in the legal defense funds can be transferred to another legal defense fund, used for another legal defense matter or can be returned pro rata to the contributors, or can be returned to the city's general fund. Those monies cannot be transferred to any other committee.

Chairman Getman asked staff what would happen to leftover legal defense funds under Proposition 34.

Ms. Menchaca responded that the statute includes provisions for surplus funds.

Chairman Getman noted that she still agreed with staff's recommendation to interpret § 85304 on a per-election basis.

Commissioner Swanson stated that she did not believe that it should go with the candidate, because each election is very different, and encouraged LAEC to consider changing its rules so that there would be no conflict.

Commissioner Downey asked staff whether a city official, who is a candidate for state office and is under investigation by the city for possible violation of both state and city laws in connection with the official's state election campaign, would be subject to the $1,000 contribution limitation to a legal defense fund for that matter.

Mr. Tocher responded that the candidate would not be subject to the $1,000 limitation.

Commissioner Sheridan asked if there could be violations of the city law in connection with the state campaign.

Ms. Pelham responded that there could be misuse of public resources, such as the city official directing staff to work on the state campaign.

Chairman Getman noted that if it were in connection with the state electoral campaign, under staff's recommended analysis, the official could establish a legal defense fund without the $1,000 contribution limit.

Ms. Pelham stated that under that analysis, a city official who is a state candidate and misuses their authority in the city of Los Angeles to help aid their state campaign, could receive unlimited contributions to a legal defense fund. She noted that a city official who is not running for state office and misuses their public resources on a city campaign, would be subject to the $1,000 contribution limitation.

Steven Kaufman, from Los Angeles, agreed with the staff's recommendation, but noted that the issue in the example presented involved misuse of resources as an officeholder, which would be a separate violation from a violation resulting from a campaign for state office.

Mr. Tocher noted that the determination could depend on how the prosecuting document is worded and construed.

Commissioner Swanson asked what would happen if the Commission accepted staff's recommendation, and the city of Los Angeles asked for an opinion from the Commission regarding the investigation of a city official who is running for a state office and violated city ethics laws. She asked whether the staff's recommendation would place the Commission in an awkward position because of the different standards involved if that official won the election and becomes a state officer.

Mr. Tocher responded that he did not think it would because it would probably be resolved on and advice letter basis and would fit into the staff's recommendation for the opinion under consideration.

Ms. Menchaca stated that the Legal Division may be by rendering an informal advice letter or opinion on what staff's view on the law is. When enforcement entities wish assistance, she added, they would probably get similar assistance from FPPC enforcement staff, but she was not sure whether it fits within that purview.

Chairman Getman motioned that the Commission interpret § 85304 to apply to elections for state office regardless of who the candidate is. Commissioner Downey seconded the motion. There being no objection, the motion carried.

Mr. Tocher noted that this is one area where the statute may be the subject of regulatory action, and added that the Commission may wish to incorporate this opinion into a regulation.

Ms. Pelham clarified that, under this decision, a state official running for city office would be bound by the city legal defense fund limits.

Chairman Getman and Mr. Tocher agreed.

Mr. Hallabrin asked whether it was meant to indicate that if a statewide officeholder were running for a city office, the city's legal defense fund limits would govern, even if there were a statewide officeholder violation.

Chairman Getman explained that the city's defense fund limits would apply, assuming that the violation was in conjunction with a campaign for city office.

Item III

Mr. Tocher explained that § 85308 states that a contribution made by a child under 18 years of age is assumed to be a contribution by the minor's parent or guardian. He noted that the Los Angeles city code includes a section which contains essentially the same thing, but notes that it states that the contribution "shall" be treated as a contribution by the parents, and provides for a proportional allocation of the contribution to each parent.

Mr. Tocher stated that the threshold question presented by the LAEC asks whether the "presumed" language is a rebuttable presumption, and explained that the staff memo looked at voter intent in determining their recommendation. He explained that by comparing the previous statute to the current statute, staff had concluded that the state statute establishes a rebuttable presumption that a contribution from a minor is from the parents.

Mr. Tocher clarified that, by using that definition of presumption, the contributions are not always required to be attributed to the parent or guardian, and that a minor may be a contributor in his or her own right. He added that he believed this would apply to all elections, not just statewide campaigns or elected officers, but noted that one could also interpret it to be silent on the issue of its application.

Ms. Pelham stated that the city law states that the contribution shall be treated as a contribution by the parent, and that the "rebuttable" language provided in the statute would not apply to contributions in the city because their laws are a further restriction or contribution.

Mr. Tocher explained that § 85703 allows local jurisdictions to have their own prohibitions or restrictions in local elections and would apply in this case. He believed that the city's ordinance

governing contributions by minors could be characterized as a "contribution, limitation or prohibition."

Ms. Menchaca stated that applying § 85703 is plausible. She noted that in Item II of the LAEC's opinion request, § 85703 was clearly applicable. She explained that LAEC had not specifically provided facts, views, or interpretations of the minor issue. She noted that it was not staff's goal to interpret LAEC's ordinance in terms of what they think the interpretation should be. Staff was interpreting Proposition 34, not the validity of the local ordinance itself. She suggested that further analysis by staff would have to be done if a finding of whether it was a contribution limit was needed.

Ms. Pelham said that they could provide that information.

Commissioner Sheridan noted that LAEC's view is that it is a limitation on the parent's contributions in defining the contributions from children.

Ms. Pelham agreed, noting that prior to the establishment of the LAEC, there was concern in Los Angeles that parents were funneling contributions through their children in an effort to get around the contribution limits law.

Mr. Tocher suggested that the Commission may wish to pursue this issue in the form of a regulation to clarify what would happen in a three or four parent situation.

Commissioner Swanson requested that staff pursue the regulation, noting that it is a common occurrence to have more than two parents, and that this potential loophole should be closed.

Commissioner Knox asked whether the rebuttable presumption would apply to a Los Angeles officeholder running for a statewide office.

Mr. Tocher responded that he would defer to the LAEC to ask them whether they would seek to apply their restrictions.

Ms. Menchaca stated that if LAEC did consider this to be a contribution limit, the analysis would be similar to that discussed in the legal defense fund issue. She noted that staff may not be able to provide a conclusion with respect to the officeholder because it would be tied to the election itself.

Chairman Getman stated that this section did not seem to be as tied to elections as the legal defense fund issue, because it is tied to all contributions.

Mr. Tocher agreed, but noted that it should be read in conjunction with § 85307 which allows local elections to be handled differently. He stated that the judgement could be made with the conclusion of the LAEC that it is a limitation or prohibition under § 85703.

Chairman Getman stated that in the scenario provided by Mr. Knox, the Commission would answer that it is a rebuttable presumption, and leave open to the LAEC the possibility that they interpret their ordinance as a contribution limitation. In that case, she added, it could apply to local elections.

Ms. Pelham stated that she was comfortable with that interpretation as long as it included contributions to officeholder accounts. She explained that their law overlays state law, and that

they do not define separately contributions in the city law. Under their law, she added, they allow those who are elected to office to establish an officeholder account. Private fundraising can be done for those accounts, but there are contribution and spending limits to those accounts, and those funds can only be used for purposes of serving, assisting and communicating with their constituents. They believe that the limitation of the minor language would apply to those accounts. If a minor were to give to an officeholder account, or a legal defense fund, they would attribute the contribution to their parent or guardian.

Ms. Menchaca agreed that Ms. Pelham's interpretation would work under the staff recommendation, but encouraged the Commission to explore regulatory language to clarify the statute, addressing officeholder candidacy issues so that the Commission's interpretation of "apply to elections for elective state office" would be clear. In that way, she noted, it would be clear that the contributions for officeholder purposes would be viewed by the Commission as applying to the election for elective state office.

Commissioner Swanson asked whether there might be examples where an officeholder account in the city of Los Angeles does not necessarily apply to election of office.

Ms. Menchaca responded that it could be an argument and may have an impact when considering other issues with respect to Proposition 34. Arguably, she added, an officeholder expense would be one that advances a legislative or governmental purpose only, not a political purpose. She urged the Commission to consider that further, noting that it would give staff the opportunity to explore the officeholder issues that arise outside of any local ordinance context.

Chairman Getman clarified that, for the purposes of responding to the opinion request, staff's suggestion was that the Commission should respond that the statute under Proposition 34 creates a rebuttable presumption. She added that staff further recommends that specific issues pertaining to officeholders or other issues be dealt with separately by regulatory action at a later time.

Ms. Menchaca agreed.

Mr. Knox clarified that staff was recommending that the Commission not address specifically the questions raised by the LAEC with respect to the interplay of state and local law.

Ms. Menchaca agreed, noting that they would not address contributions a minor may make to a Los Angeles candidate or office. She explained that staff could address those issues, but it may be advisable to make a supplemental analysis taking into consideration how the LAEC views their own ordinances.

Ms. Pelham stated that they could provide additional information.

Chairman Getman clarified that the assumption would be that if it is treated as a contribution limit, the contribution can be validly applied to the Los Angeles elections.

Ms. Menchaca agreed.

Chairman Getman clarified that, with respect to state elections, there would still be a rebuttable presumption.

Ms. Menchaca agreed.

Commissioner Knox supported the recommendation, but stated that the Commission should address the specific questions raised by Ms. Pelham.

There was no objection from the Commission to accepting the staff recommendation that the statute under Proposition 34 creates a rebuttable presumption, and that specific issues pertaining to officeholders or other issues be dealt with separately by regulatory action at a later time.

Item 4

Mr. Tocher explained that § 84301 of the Act is the prohibition against laundered contributions, and § 85701 is a different provision that requires the recipient of the laundered contribution to disgorge that amount to the state general fund. He noted that the charter of Los Angeles provides that those laundered contributions go to the city fund.

Mr. Tocher noted that the recoupment of fines associated with laundering contributions is separate from the discussion of the disgorgement of the contributions. The fine, he explained, would be levied against the wrongdoer, while the disgorged money comes from the recipient committee.

Mr. Tocher observed that the § 85701 does not clearly delineate when the laundered money must be paid to the state fund. He added that it is subject to the interpretation that, once there has been an adjudication of a violation of § 84301, the recipient would be obliged to give the money to the state fund. The language of the Los Angeles Municipal Charter provides that when the candidate or committee discovers that § 84301 had been violated, they must promptly pay the amount received in violation of § 84301.

Mr. Tocher noted that this is the first time this disgorgement issue had been raised.

Ms. Pelham stated that in past enforcement cases where a joint investigation was conducted with the city of Los Angeles and a fine had been levied by the FPPC, the disgorgement issue was dealt with by the payment of a fine.

Mr. Tocher explained that staff believed, similar to seized assets and consumer fraud law, it would depend on under which scheme or structure the penalty is assessed. Under this interpretation, he stated, the disgorgement would go to the local or state agency taking the enforcement action with regard to the alleged violation of the money laundering statute. This would not, he stated, preclude a local jurisdiction, in most circumstances, from bringing their own actions under their own scheme and collecting the funds.

Chairman Getman stated that it could preclude them if the state had already collected the funds from the recipient committee. If the committee was required to give the funds to the local jurisdiction after already giving them to the state jurisdiction, it would amount to fining the committee. She noted that the committee would have to pick which jurisdiction to return the funds to.

Mr. Tocher agreed.

Chairman Getman stated that the conflict would not be avoided by the staff's interpretation.

Commissioner Knox asked, if a committee wanted to do the right thing and return the funds, who they would return it to.

Mr. Tocher responded that, since the municipal charter required prompt return of the funds and the state statute is uncertain about when the money is returned, it is a valid concern.

Chairman Getman noted that the statute makes it clear that the money must be returned to the state general fund, even though it does not indicate when.

Wayne Strumpfer, FPPC Executive Director and Acting Chief of Enforcement, compared this with the analogous situation of asset forfeiture, noting that when action is brought pursuant to both federal and state laws, it has been found to be acceptable to split the asset forfeiture. He explained that the determining factor is in who brings the action, but in those cases where both local ordinance and state statute are violated, the funds can be split by agreement of the two prosecuting entities. The agreement would made between the two entities at the time that they work the case out, and would be based on the allocation of the funds, ie. if the FPPC provided 75% of the resources to pursue the case, they would retain 75% of the funds.

Chairman Getman noted that the prosecution would be against the launderer, not the committee, and asked whether it is assumed that there will be an action against the committee as well for disgorgement.

Mr. Strumpfer stated that there could be an action.

Chairman Getman asked whether a committee that wanted to voluntarily disgorge the funds would have to be in contact with the enforcement agencies.

Mr. Strumpfer responded that they would, and that it was his understanding that they could disgorge to the general fund of the state of California, and, if an agreement exists with the local agency, some of that disgorgement money could be given to them.

Commissioner Knox asked if the committee would have immunity from prosecution at the local level if the state and local agency were not in agreement, and the committee returns the money to the state.

Mr. Strumpfer responded that disgorgement can only occur once, and noted that if the committee was innocent of any wrongdoing and therefore not subject to a fine, and disgorged the funds to one of the agencies, they would not be required to disgorge money to the other agency.

Ms. Pelham stated that the committees are not allowed to receive laundered funds, but that, in practice, it is the launderers who have been fined. She noted that there is not a specific time that the laundered money has to be returned to the city.

Commissioner Downey asked staff for further clarification of where the disgorgement money would go if there is no agreement, and a news headline announces that a money laundering scheme has been identified. In that case, the recipients would know that they have received laundered funds. Commissioner Downey asked what staff would advise if the committee asks where they should send the money.

Mr. Tocher responded that if staff is asked, the money should come to the state.

Mr. Strumpfer noted that the Los Angeles ordinance on money laundering mirrors the state statute, and it would rarely happen that Los Angeles would charge a money laundering case and

the state would not. He explained that, if the state is working with the local officials, and disgorgement is made to the state general fund, some of the money can be disbursed back to Los Angeles. Therefore, the money should be sent to the state general fund and the FPPC would disburse it appropriately.

Ms. Menchaca noted that if a candidate or committee disgorges to either the state or local entity, they would have met their legal obligations.

Chairman Getman observed that the main issue is that the candidate or committee gives the money back, and that she did not see a practical problem as long as the committee gives it back to someone.

Chairman Getman agreed with staff's recommendation that there could only be one disgorgement that could potentially be split between the state and Los Angeles.

Commissioner Downey agreed.

Commissioner Swanson stated that these clarifications will be on the record, so that the questions will not need to be analyzed again.

There was no objection from the Commission to accepting staff's recommendation.

The Commission adjourned for a break at 11:10 a.m. The meeting reconvened at 11:30 a.m.

Enforcement Consent Calendar

Chairman Getman requested that items #9(i) and #9(p) be removed from the consent calendar. She also announced that she would recuse herself from item #18.

Item #4. Repeal or Amendment of Propositions 208 and 73 Regulations in Light of the Passage of Proposition 34. Repeal of Regulations 18519.4, 18530.1, 18530.7, 18531.1, 18531.3, 18531.4, 18531.5, 18532, 18535, 18539, 18541, 18550 and 18626 and Amendment of Regulations 18523, 18523.1, 18531, 18533 and 18537.

Ms. Menchaca explained that, in January, staff presented regulations for repeal or amendment that had been enacted pursuant to Propositions 73 and 208. She noted that Proposition 34 made major changes to the law and required that staff evaluate the regulations and repeal or amend them so that they would conform to the Proposition 34 laws. She noted that the regulations and proposed changes are identical to those presented in January, except for a minor change to regulation 18523.1, which deleted language. She asked for the Commission's approval, noting that there had been no public comment with respect to the changes and that they did not appear to be controversial. She stated that there may be further amendments.

There being no objection, staff's recommendation was approved.

Item #5. Adoption of Regulation 18503 and Repeal of Regulations 18502 and 18502.1 Pertaining to Small Contributor Committees.

Commission Counsel Julia Bilaver explained that Regulation 18503 was approved by the Commission in January for emergency adoption, and that it was being presented for permanent

adoption, along with a request to repeal Regulations 18502 and 18502.1 dealing with similar matters under previous laws.

Ms. Bilaver explained that the contribution limits under Proposition 34 allow small contributor committees to contribute at a higher threshold. She noted that to qualify as a small contributor committee, the committee (1) must have been in existence for at least six months, (2) receives contributions from 100 or more persons, (3) has not received more than $200 from any one person per calendar year, and (4) makes contributions to five or more candidates.

Ms. Bilaver stated that the proposed regulation would (1) require small contributor committees to register, (2) allow pre-Proposition 34 activities to count towards qualifying as a small contributor committee, (3) impose a rolling 36-month time frame on two of the requirements, and (4) allow committees that have received more than $200 per person per calendar year in the past to cleanse their campaign funds of those excessive contributions in order to qualify as a small contributor committee.

Ms. Bilaver stated that the "cleansing" can be accomplished by several methods, but that staff was recommending that they not have any funds on hand at the time that they wish to avail themselves of the higher contribution limit and register as a small contributor committee.

Chairman Getman clarified that the regulations would not dictate how the cleansing occurs, but that it could occur by giving contributions back, or by setting up a new committee.

There being no objection, the regulations were approved.

Item #6. Campaign Disclosure Forms – Implementation of Proposition 34 and Other Legislative Changes.

Technical Assistance Division Chief Carla Wardlow explained that the campaign reporting forms have been undergoing a series of changes brought about by legislation enacted last year, and that Proposition 34 has brought about more potential changes. She noted that making those changes is complicated by the fact that the state now has an electronic filing requirement, and that any change to a form that is subject to electronic filing can be costly to implement

Ms. Wardlow stated that SB 2076 created some reporting changes affecting the main campaign reporting form, Form 460, particularly with regard to reporting loans. She reported that the Secretary of State's office (SOS) and other members of the regulated community have asked that the Commission not implement those changes until it is determined whether there will be additional changes related to Proposition 34.

Ms. Wardlow noted that Proposition 34 did not mandate changes to the forms, but that staff believed some changes would be helpful, allowing the tracking of contributions per election. For example, she pointed out, money could be tracked for a primary election versus a general election.

Ms. Wardlow recommended that the Commission approve the proposed Form 460, which only included changes brought about by the legislative amendments to the Act (primarily SB 2076). She further recommended that committees that are filing electronically would not yet be required to use the new form until it has been determined whether Proposition 34 changes will be made.

Ms. Wardlow noted that it had been suggested at the January meeting that the Form 460 changes not be approved. She suggested that the Commission was in a difficult position of trying to implement changes that are part of the statute without creating a lot of difficulty and expense for the SOS and software vendors.

She reported that Diane Fishburn, of Olson, Hagel, Waters and Fishburn, recommended that any candidate or committee that uses campaign reporting software, regardless of whether they file electronically or not, be included in the exception. If they are required to use the new Form 460, she explained, they would need to use two forms; one for the Form 460 and one for the state electronic filers.

Ms. Wardlow believed that it was a good suggestion, and saw no other way to implement it. She believed that the changes to the Form 460 as a result of Proposition 34 could be made this year but may be too late for the 2002 election season. She noted that the Proposition 34 changes would affect every candidate for elective state office, and only a small group would use the paper forms. The first filing in connection with the 2002 election is due October 10, 2001, she stated, and an approved Form 460 would have to be ready by June 2001 in order to get them to the filers in a timely manner.

Caren Daniels-Meade, of the SOS Political Reform Division stated that they have been operating under the assumption that they would have something by June, and that they would do their utmost to have it in place by October, but that it would be difficult to do.

Ms. Wardlow stated that it would be difficult to have the Form 460 done by June, but that they probably could do it.

Chairman Getman agreed that changing the Form 460 twice in one year should be avoided. However, she noted that if the Proposition 34 changes cannot be made in time for the 2002 election, the changes currently proposed to Form 460 should be made now to comply with the law.

Ms. Daniels-Meade asked whether the Commission had considered having two separate forms; one for the state and one for local entities.

Ms. Wardlow responded that it was something that should be considered. She noted that an electronically filed form looks the same as the filer's paper form, and that if a revised Form 460 were issued, the candidate who files electronically would be using the same form to file on paper as the electronic filing form. Staff would not be able to advise them to use the new form for their paper filing, but use the old form for the electronic filing.

Ms. Daniels-Meade questioned whether the Form 496 was already being handled that way informally now.

Ms. Wardlow agreed that it was.

Ms. Daniels-Meade stated that, in the interim, it had been mutually agreed that filers would not be totally in compliance. She explained that people had been advised to use the electronic memo field to indicate that the list of contributors is being filed on the paper version only of the Form 496 during the special elections.

Ms. Wardlow explained that the Form 460 was much more complex than the Form 496.

Diane Fishburn commented that her law firm represented many candidates and PACS, and prepared their reports, and that she had recommended last month the postponement of adoption of the changes to the Form 460. She agreed that time is of the essence, and that it would be to her clients' benefit to be able to disclose information that would demonstrate that they are in compliance with Proposition 34. She suggested that the commercial vendor and technical communities should be included in the discussion so that it could be determined whether the changes are feasible by June 2001. She agreed with Alternative 2 of the staff memo, as long as it is clear that those people using software programs that have not been updated can continue to use those programs as long as they provide the annual loan report information with their reports.

Ms. Daniels-Meade stated that filers can pay anwhere from $50 per filing to $10,000 for software programs.

Chairman Getman stated that the Commission must get away from a form-driven system, noting that this issue will arise every time there is a change in the law with the current system. She noted that making the Proposition 34 changes quickly at this time would require a commitment from everyone affected by the issues. If that commitment is made, she believed that the changes could be accomplished by June 2001. Otherwise, if forms are adopted now and in June, and the electronic filers are exempted, those persons who do not have the resources for electronic filing will be at a disadvantage.

Commissioner Swanson explained that she was concerned about that those candidates without resources. She noted that many candidates do not have the funds to pay law firms and that the Commission must be cognizant of that, and find a way to make it right, in compliance with the law, and simpler. She suggested that the forms could be different for different offices.

Chairman Getman agreed with Commissioner Swanson's concern, noting that she had been concerned with the number of law firms being fined for a major donor violation who filled out the form incorrectly.

Chairman Getman suggested that a schedule be developed to deal with the changes on the Form 460, noting that it could be unrealistic considering that there could be interpretation questions that have not yet been made.

Ms. Wardlow noted that there may need to be regulations in order to implement the changes.

Chairman Getman responded that there could be an emergency form adoption.

Ms. Menchaca noted that the work plan for Proposition 34 included a staff approach of looking at sections or issues and developing regulations that address all of the issues, one of which would be disclosure of the forms. She explained that staff would need to look at the issues again, and isolate all of the Proposition 34 form issues in order to accomplish this by June. She added that if other interpretive issues with respect to those sections arise, they would be discussed later.

Chairman Getman responded that the idea would be to get the essential information on the Form 460 that can be used for the upcoming election cycle, knowing that refinements may be required next year.

Ms. Wardlow stated that an IP meeting was scheduled for March 16, on some other form changes including the Form 496, and that an initial discussion of Proposition 34 changes could

be incorporated into this meeting. She suggested that another mailing could be sent out on Monday, March 12 to notify people of the addition.

Chairman Getman advised staff to include the initial discussion at the March 16 meeting and to set a Proposition 34 forms meeting one or two weeks after that meeting. She urged staff to make their best efforts to notify treasurers, software vendors, political attorneys and other groups who might be interested of the meeting. If that was done, a draft Form 460 could be circulating by May 1, 2001.

Ms. Wardlow agreed, noting that it must be circulated for public comment for 30 days before the June agenda. She stated that another IP meeting could be held during that 30 day period, but that meeting would only be for minor changes.

Chairman Getman asked the Commission whether they would be comfortable with waiting on the initial set of loan changes, and adopting one Form 460 in June with the proposed schedule.

Commissioner Downey asked whether staff was comfortable with this alternative.

Ms. Wardlow responded that she was comfortable with the proposal, noting that she was concerned that people are not currently in compliance with what the Act now says, but could work with it.

Commissioner Downey agreed with her concern.

Ms. Wardlow stated that staff could try to let people know about Part 3 of the loan schedule every time that they file, but noted that there are thousands of committees and it would be difficult to do and would probably not bring a high level of compliance.

Chairman Getman noted that it is a "no-win" situation no matter what the Commission decides. She suggested that the next time a change in the law is proposed that will affect the forms, the Commission request some lead time so that they can change the forms in a timely manner. Ultimately, she added, the Commission should get away from the forms.

Chairman Getman motioned that changes to the Form 460 be postponed until the June meeting, and at that time adopt a form that would be applicable for the next election cycle for Proposition 34 filers as well as containing the loan provisions.

Commissioner Knox seconded the motion.

There being no objection the motion carried.

Item #7. Proposed Revisions to Regulatory Work Plan.

Ms. Menchaca presented the staff's memo outlining the staff's plan of action with respect to their work on Proposition 34 implementation. The memo summarizes what the staff has been doing with respect to IP meetings and holding meetings to provide informal advice. She stated that the proposal represents the regulatory portion of that.

Ms. Menchaca pointed out that the memo separated the issues into Proposition 34 and non-Proposition 34 items, because the Commission approved a schedule last year and staff wanted to show the Commission where modifications as a result of Proposition 34 were.

The Commission recessed to closed session at 12:15 p.m. to consider the following matters:

Item #25. Pending Litigation (Gov. Code §§ 11126 (e)(1), 11126 (e)(2)(C).)

a. ***California ProLife Council Political Action Committee v. Scully.***
b. ***Daniel Griset et al. v. Fair Political Practices Commission.***
c. Case name not revealed pursuant to Gov. Code § 11126.3(e).

Item #26. Discussion of Personnel. (Gov. Code § 11126(a)(1).)

The public session reconvened at 1:45 p.m.

Item #7. Proposed Revisions to Regulatory Work Plan. (Cont.)

Ms. Menchaca explained that the regulatory calendar is reviewed on a quarterly basis and proposed changes are presented to the Commission at that time. She noted that the memo describes some of the work that needs to be revised in terms of timelines only with respect to non-Proposition 34 issues, and that the bulk of the memo discusses the regulatory areas for Proposition 34.

Ms. Menchaca summarized that staff scheduled those issues considered urgent earlier in the year, including transfer and carryover issues, forms, regulations for statutes that do not specify what should be included on the forms and any other matter that the public has said was urgent. Other issues that were not considered as urgent would be considered from May through July. These include consideration of the officeholder issues, issues pertaining to loans and Proposition 34. Issues that will be considered toward the end of the year include consideration of very important sections that staff believed warrants regulatory action such as issues pertaining to aggregation of contributions and member communications. Staff included those items towards the end of the year because they require extensive analysis and work on the part of the staff, as well as more IP meetings before regulatory language can be considered. Staff has also deferred consideration of regulatory action toward the end of the year on some items involving pending litigation.

Ms. Menchaca noted that SB 34 may amend some provisions of proposition 34. She pointed out that the work plan assumes that there are no amendments, but that if there are amendments that impact the regulatory work, there would be additional revisions. She explained that there had been no public comment regarding the work plan, and requested approval by the Commission.

Commissioner Knox asked whether the work plan would be affected by the decision to expedite the Form 460 revision.

Ms. Menchaca responded affirmatively, that any project in the work plan that is forms-related will be pulled out of that project and included in the overall forms presentation in June.

There being no objection, the work plan was approved.

Ms. Menchaca added that Senior Commission Counsel Larry Woodlock would be helping with implementation of the work plan on Proposition 34.

Item #22. Legislative Report.

a. Request for Commission position on SB 34.

Senior Commission Counsel and Government Relations Director Mark Krausse distributed updated copies of SB 34, and noted that the legislative report in the agenda binder included all bills introduced as of the Legislature's deadline for introducing bills. He explained that "spot" or "placeholder" bills were included by legislators because they were not yet sure what language they were going to use in the bills they were going to introduce. Those bills, he explained, were generally not substantive, and will probably not move very quickly.

Mr. Krausse explained that SB 34 has two major amendments. One of the amendments would allow termed-out elective state officers to fundraise. The second amendment would allow existing state officials with debt to raise funds in amounts not subject to Proposition 34's limits to repay that debt. He noted that the Act and SB 34 use "elective state office candidate" to refer to candidates for the Legislature, Board of Equalization, and all statewide offices. He further explained that "statewide elective office" refers only to statewide offices. This is significant, he noted, because there is a delayed operative date for statewide officials. SB 34, he stated, does not apply to candidates for statewide office until after the next general election.

Mr. Krausse stated that SB 34 proposed authority for termed-out officeholders to fundraise, even though § 85316 seems to prohibit the fundraising. He explained that legislators frequently use campaign funds to pay for political, legislative, or governmental purposes, and these expenditures were allowed by the Commission and provided for under Proposition 208. Proposition 34, he noted, made no provision for those expenditures, and it was understood that it was an allowable expense but was not specifically referred to and therefore could be funded with money collected under the limits of Proposition 34. Now there is a provision of Proposition 34 that campaign contributions cannot be collected after the date of the election except to retire debt from that election.

Mr. Krausse explained that SB 34 would allow termed-out officeholders to continue to raise funds for political, legislative or governmental purposes, and would allow them to use the funds for future campaigns if they choose to seek another office later.

Mr. Krausse stated that SB 34 would also allow candidates to retire pre-2001 debt with unlimited per-contributor campaign contributions, unless the campaign was in a special election.

Mr. Krausse pointed out that SB 34 would provide a new reporting requirement that any contribution of $5,000 or more made more than 90 days out from an election has to be reported online within 24 hours by the elective state office candidate who receives it.

Mr. Krausse recommended that the Commission take no position on the bill at this point because many amendments are still being discussed and the content may change significantly in the next month.

Commissioner Swanson asked if anyone had requested a position from the Commission.

Mr. Krausse responded that the author of the bill, Senator McPherson, asked the Commission to sponsor the bill, but subsequently announced that he was no longer authoring the bill. Consequently, there was no request before the Commission to sponsor the bill at this time.

Mr. Krausse stated that if any more changes are proposed to the bill, they will be presented to the Commission at the next meeting. He noted that the bill is no longer on the "fast track" because it has become more controversial than originally anticipated. He reminded the Commission that a good portion of the amendments were those that the Commission had forwarded to Senator Burton's office shortly after Proposition 34 passed, and that staff felt confident in that portion of the bill. He estimated that the Commission may have to take a position on the bill by June. He said that he would continue to work with the legislative staff on the technical changes, and noted that additional corrections have been forwarded to the drafters and those have yet to be amended into the bill.

There was no objection to taking no position on the bill.

Item #8. Update: Late Contribution Program – Streamlined Procedure.

Chief Investigator of the Enforcement Division, Al Herndon, stated that Investigator Jon Wroten was primarily responsible for the implementation of this program.

Mr. Wroten stated that the program was designed to increase awareness on the part of the public and the regulated community with regards to late contribution filings. He described those contributions as ones made or received in the 16 days immediately prior to an election of $1,000 or more. He noted that this program was limited to instances where the combined total contributions were $10,000 or more, made or received.

Mr. Wroten reported that the staff used the SOS electronic database to identify the reported contributions received or made, and cross-matched them to find cases where either the recipient or contributor had not filed a report. After identifying, staff researched whether there was an obligation to file, and if it was determined that an actual violation had occurred, an enforcement action would be initiated.

Mr. Wroten explained that those enforcement cases were heard by the Commission between June 2000 and January 2001. The last of those cases, he noted, for the March 7 primary election was heard at the January meeting.

Chairman Getman explained that this process is an extraordinarily different in the handling of these types of cases. In the past, prosecutions of late contributions occurred after an audit had been done, often years after the violation occurred. She noted that the Commission appreciated the cooperation from Caren Daniels-Meade and the SOS office in making this new program work.

Mr. Wroten stated that this is the first pro-active streamlined process for the FPPC. He added that another unique feature to this program is the one-page streamlined stipulation decision and order form, as opposed to a fairly lengthy legal document, reducing the demand on staff time to process fairly routine matters. Mr. Wroten commented that staff had received feedback on the program, and were incorporating that information into the major donor program as well as the late contribution program for the November general election.

Mr. Wroten reported that 5,411 late contribution records were reviewed and searched in the electronic database. From those records, staff identified 150 preliminary investigations or inquiries. He expained that out of those 150 investigations: 7 warning letters were issued in lieu of prosecution; staff identified $2,211,338.51 in unreported late contributions that resulted in a total of 96 separate violations or counts that were prosecuted against 42 separate respondents;

$86,537.11 were collected in fines by the Commission; and 11 cases have been referred to full investigation status because other issues became apparent as a result of the initial inquiries made by staff.

Mr. Wroten added that the program included a proactive outreach and education component, providing a lot of information to contributors as well as recipient committees. He noted that people who were identified as potential violators during the March election cycle, were contacted proactively by staff, alerted to the 16-day reporting period during the November election, and were forewarned about their filing requirements.

Chairman Getman stated that staff had done a remarkable job and that the results far exceeded the Commission's expectations. She noted that, because of staff's work on this project, there should be fewer violations in the future.

Commissioner Swanson stated that the program should be publicized so that the public would know that enforcement cases would be pursued in a timely manner from now on. She asked the status of old enforcement cases.

Mr. Strumpfer responded that there are some old cases still pending that are going through the collection process. He noted that, over the past three weeks, he and Mr. Herndon had done case reviews with enforcement staff, focusing efforts on older cases. He explained that this would result in the Commission hearing a lot of older cases in the next few months.

Commissioner Swanson requested that staff provide periodic updates of the status of enforcement cases.

Item #9. Failure to Timely File Major Donor Campaign Statement – Streamlined Procedure.

Chairman Getman noted that the Commission had agreed to consider all of the major donor streamlined stipulations, except items i and p, on the consent calendar.

Commissioner Swanson motioned that the following items be approved:

1st Tier Violation - $400.00 fine

a. ***In the Matter of American Fidelity Life Insurance,*** **FPPC No. 2001-0006.**
b. ***In the Matter of Britz Fertilizers,*** **FPPC No. 2001-0010.**
c. ***In the Matter of Camp, Dresser & McKee, Inc.,*** **FPPC No. 2001-0011.**
d. ***In the Matter of Cement Masons Local 400,*** **FPPC No. 2001-0013.**
e. ***In the Matter of Omar Habbas,*** **FPPC No. 2001-0018.**
f. ***In the Matter of Edwin Heafey,*** **FPPC No. 2001-0020.**
g. ***In the Matter of Darrell Issa,*** **FPPC No. 2001-0022.**
h. ***In the Matter of Kirkpatrick & Boswell,*** **FPPC No. 2001-0023.**
j. ***In the Matter of Richard McCune,*** **FPPC No. 2001-0027.**
k. ***In the Matter of Packard, Packard & Johnson,*** **FPPC No. 2001-0030.**
l. ***In the Matter of San Francisco Aids Foundation,*** **FPPC No. 2001-0038.**
m. ***In the Matter of The Great Western Life Assurance Co.,*** **FPPC No. 2001-0043.**
n. ***In the Matter of The San Juan Company,*** **FPPC No. 2001-044.**
o. ***In the Matter of Vidler Water Company, Inc.,*** **FPPC No. 2001-0046.**

q. ***In the Matter of Dairy Producers Environmental Foundation*, FPPC No. 2001-0015.**
r. ***In the Matter of Rossini Farming Company, Inc*., FPPC No. 2001-0036.**

2nd Tier Violation - $600.00 fine

s. ***In the Matter of Ramona Alves*, FPPC No. 2001-0005.**
t. ***In the Matter of Black & Veatch*, FPPC No. 2001-0009.**
u. ***In the Matter of Joseph Carcione*, FPPC No. 2001-0012.**
v. ***In the Matter of Michael Douglas*, FPPC No. 2001-0016.**
w. ***In the Matter of Candice Hanson*, FPPC No. 2001-0019.**
x. ***In the Matter of David Hoffman*, FPPC No. 2001-0021.**
y. ***In the Matter of Rouda, Feder & Tietjen, Ronald Rouda*, FPPC No. 2001-0037.**
z. ***In the Matter of Starrh & Starrh*, FPPC No. 2001-0040.**
aa. ***In the Matter of Stienbrecher & Associates*, FPPC No. 2001-0041.**
bb. ***In the Matter of The Stephanie & Carter McClelland Foundation*, FPPC No. 2001-0045.**
cc. ***In the Matter of The Chronicle Publishing Company*, FPPC No. 2001-0042.**
dd. ***In the Matter of P M Consulting Company*, FPPC No. 2001-0028.**

Commissioner Knox seconded the motion.

There being no objection, the motion carried.

i. In the Matter of Larry Knapp, FPPC No. 2001-0024.
p. In the Matter of Global Crossing, FPPC No. 2001-0017.

Chairman Getman explained that she requested that items i and p be taken off of the consent calendar because the Commission, when they approved the major donor streamlined procedure, had requested that all cases involving contributions of $50,000 or more be reviewed prior to being included in the streamlined program. She asked staff to outline their review of the two cases.

Mr. Herndon responded that a secondary review had been conducted on these cases by himself, Mr. Wroten, and former Enforcement Division Chief Cy Rickards. The cases involved single contributions to ballot measures, and staff saw no factors that would indicate that they should not be treated as part of the streamlined program. The contributors responded quickly to staff's notification, allowing them to be included in the first tier of the fine levels.

Chairman Getman noted that she found it difficult to follow the stipulations because donation information was not included, requiring that the major donor report be attached. She suggested that a better presentation be developed, including the parameters of the violations, and the amount of the contributions considered.

Mr. Herndon agreed.

Chairman Getman motioned approval of items i and p.

Commissioner Knox seconded the motion.

Commissioner Swanson recused herself from item p because she thought she owned stock in that company.

There being no objection, the motion carried.

Items #10, #11, #12, #13, #14, #15, #16, #17, #18, #19, #20, and #21.

Chairman Getman noted that the Commission agreed to consider Items 11 through 21 on the consent calendar, and that she was recusing herself from item 18 because it involved one of her former clients.

Commissioner Downey motioned approval of the following items:

Item #10. ***In the Matter of Bob Chapman,*** **FPPC No. 00/763.**
Item #11. ***In the Matter of Jennifer Jacobs,*** **FPPC No. 00/760.**
Item #12. ***In the Matter of Andy Matsui,*** **FPPC No. 2000/756.**
Item #13. ***In the Matter of Walter Van Wingerden,*** **FPPC No. 2000/759.**
Item #14. ***In the Matter of Cees Dobbe,*** **FPPC No. 2000/761.**
Item #15. ***In the Matter of Wilja Happe-Brand,*** **FPPC No. 2000/801.**
Item #16. ***In the Matter of Brenda Whitfield.*** **FPPC No. 00/147.**
Item #17. ***In the Matter of Thomas F. Kranz,*** **FPPC No. 99/367.**
Item #18. ***In the Matter of Consumer Attorneys Issues Political Action Committee and Josephine De Shiell,*** **FPPC No. 98/737.**
Item #19. ***In the Matter of Yolo County Republican Central Committee and William Himmelmann, Treasurer,*** **FPPC No. 99/813.**
Item #20. ***In the Matter of Donald K. Brown,*** **FPPC No. 98/505.**
Item #21. ***In the Matter of Engineering and Utility Contractors Association, PAC and Michael Rocco,Ttreasurer,*** **FPPC No. 99/815.**

Commissioner Knox seconded the motion.

There being no objection, the motion carried.

Item #23. Executive Director's Report

Executive Director Wayne Strumpfer noted that Commissioner Swanson had requested a discussion of Technical Assistance staff projects and the outreach programs. Mr. Strumpfer requested that Technical Assistance Division Chief Carla Wardlow explain those items.

Ms. Wardlow explained that the outreach program was developed as a result of an audit conducted by the Bureau of State Audits in 1998. The auditors determined that there were insufficient resources to ensure that frontline filing officers for campaign statements and statements of economic interests were performing their duties under the Act. She noted that there is a great deal of turnover in those filing officer positions.

Ms. Wardlow reported that staff had always provided workshops for the filing officers, but the Commission received additional funding in 1999, allowing staff resources for a filing officer outreach program. Additional staff were hired, and about 60 individual filing officer outreaches had been conducted since last year. The outreach consists of meeting with the individual filing officer and their staff, and reviewing their duties under the Act. She noted that staff approaches the outreach as an educational tool, not as an enforcement effort.

Ms. Wardlow stated that the outreach program has been extremely well received by filing officers, and that staff has received many requests from filing officers for staff to meet with them, go through their records, and help them learn what their duties are.

Item #24. Litigation Report.

Chairman Getman stated that the Litigation Report was taken under submission.

Item #25. Pending Litigation (Gov. Code §§ 1126 (e)(1), 1126 (e)(2)(C).)
a. *California ProLife Council Political Action Committee v. Scully.*

Chairman Getman announced that the Commission had agreed to file a motion for reconsideration and/or clarification on Judge Karlton's latest ruling in this case, and that the Commission would be issuing a public statement on the decision.

The meeting adjourned at 2:30 p.m.

Dated: April 6, 2001

Respectfully submitted,

_____
Sandra A. Johnson
Executive Secretary

Approved by:

_____
Chairman Getman